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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/098,620	03/18/2002	Jeremy C. Rosenberg	14688-505-401	3143
6449	7590	08/23/2005	EXAMINER	
ROTHWELL, FIGG, ERNST & MANBECK, P.C. 1425 K STREET, N.W. SUITE 800 WASHINGTON, DC 20005			FORD, GRANT M	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/098,620

Applicant(s)

ROSENBERG ET AL.

Examiner

Grant Ford

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2-20-03, 7-13-04</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(e), which papers have been placed of record in the file.

Claim Objections

2. Claims 2,3,19, and 20 are objected to because of the following informalities:
Usage of the word "identifies" as used in the phrase "recording identifies included" in claims 2 and 19 and "artist identifies included" in claims 3 and 20 is unclear. The examiner suggests changing the word identifies to identities. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. As per claim 29, A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and

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then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 29 recites the broad recitation "means for playing the selected sound recording so that the user can listen to the sound recording", and the claim also recites "means for playing the sound recording so that a user can listen to the broadcast sound recording" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Leeke et al. (6,587,127).

a. As per claim 1, Leeke discloses a method comprising the steps of: storing one or more audio channel profiles (Col 6 lines 11-15); associating each of the one or more audio channel profiles with a personalized audio channel, wherein the audio channel profile associated with a personalized audio channel is used to select the sound recordings that are played for the personalized audio channel (Col 48 lines 55-59, 64-66); receiving a broadcast sound recording over a conventional broadcast audio channel (Col 5 lines 1-4); playing the sound recording so that a user can listen to the broadcast sound recording (Col 4 lines 52-56); receiving an indication from the user that the user likes the broadcast sound recording (Col 15 lines 13-15); and modifying at least one of the one or more audio channel profiles in response to receiving the indication (Col 35 lines 60-67, Col 36 line 1).

b. As per claim 2, Leeke discloses the method of claim 1 wherein the step of modifying at least one of the one or more audio channel profiles comprises the step of adding a sound recording identifier that identifies the sound recording to a list of sound recording identifiers included in the at least one profile (Col 31 lines 4-10).

c. As per claim 3, Leeke discloses the method of claim 1 wherein the step of modifying at least one of the one or more audio channel profiles comprises the step of adding an artist identifier that identifies the artist that recorded the sound recording to a list of artist identifiers included in the at least one profile (Col 18 lines 25-32).

d. As per claim 4, Leeke discloses the method of claim 1 further comprising the step of enabling the user to specify the degree to which the user likes the sound recording (Col 35 lines 48-50).

e. As per claim 5, Leeke discloses the method of claim 1 further comprising the step of receiving an input from the user, wherein the input specifies one or more of the audio channel profiles and wherein the step of modifying at least one of the one or more profiles comprises the step of modifying at least one of the specified profiles (Col 15 lines 57-58, Col 48 lines 64-66).

f. As per claim 6, Leeke discloses the method of claim 1 further comprising the step of receiving information about the received broadcast sound recording (Table III, Col 44 lines 48-65).

g. As per claim 7, Leeke discloses the method of claim 6 further comprising the step of selecting one or more of the audio channel profiles based on the received information concerning the sound recording and wherein the step of modifying at least one of the one or more audio channel profiles comprises the step of modifying at least one of the selected profiles (Col 48 lines 65-67).

h. As per claim 8, Leeke discloses the method of claim 6 wherein the information concerning the sound recording indicates a genre to which the sound recording belongs (Col 19 lines 66-67, Col 20 lines 1-11).

i. As per claim 9, Leeke discloses the method of claim 1 further comprising the step of storing the broadcast sound recording in a cache as the

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broadcast sound recording is being received (Col 48 lines 38-47, Col 49 lines 12-21).

j. As per claim 10, Leeke discloses the method of claim 9 further comprising the step of providing a means for enabling the user to provide an indication that the user would like to obtain a copy of the broadcast sound recording (Col 14 lines 40-42).

k. As per claim 11, Leeke discloses the method of claim 10 further comprising the steps of: determining whether the user may obtain a copy of the broadcast sound recording in response to the user providing an indication that the user would like to obtain a copy of the broadcast sound recording (Col 24 lines 15-16); and copying the sound recording from the cache to a non-volatile storage medium if it is determined that the user may obtain a copy (Col 23 lines 61-66).

l. As per claim 12, Leeke discloses a method for providing one or more personalized audio channels, wherein each personalized audio channel has a profile associated therewith and each profile contains information that is used in selecting the sound recordings that are played for the personalized audio channel associated with the profile, comprising the steps of: receiving from the user an indication that the user desires to listen to a selected one of the one or more personalized audio channels (Col 35 lines 6-15); playing a set of sound recordings, wherein the set of sound recordings matches the profile associated with the selected personalized audio channel (Col 48 lines 64-66); receiving a

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broadcast sound recording over a conventional broadcast audio channel (Col 35 lines 16-19); playing the sound recording so that a user can listen to the broadcast sound recording (Col 35 line 48); enabling the user to indicate that the user likes or does not like the broadcast sound recording (Col 35 lines 48-50); and modifying the at least one of the one or more profiles in response to the user indicating that the user likes or does not like the broadcast sound recording (Col 35 lines 60-67, Col 36 lines 1-5).

m. As per claim 13, Leeke discloses the method of claim 12 further comprising the step of storing the broadcast sound recording in a cache as the broadcast sound recording is being received (Col 48 lines 38-47, Col 49 lines 12-21).

n. As per claim 14, Leeke discloses the method of claim 13 further comprising the step of providing means for enabling the user to provide an indication that the user would like to obtain a copy of the broadcast sound recording (Col 14 lines 40-42).

o. As per claim 15, Leeke discloses the method of claim 14 further comprising the steps of: determining whether the user may obtain a copy of the broadcast sound recording in response to the user providing an indication that the user would like to obtain a copy of the broadcast sound recording (Col 24 lines 15-16); and copying the sound recording from the cache to a non-volatile storage medium if it is determined that the user may obtain a copy (Col 23 lines 61-66).

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p. As per claim 16, Leeke discloses a method for providing one or more personalized audio channels, wherein each personalized audio channel has a profile associated therewith and each profile contains information that is used in selecting the sound recordings that are played by the personalized audio channel associated with the profile, comprising the steps of: using the information in one of the profiles to create a playlist, wherein the playlist specifies a set of sound recordings (Col 7 lines 63-67, Col 8 lines 1-17); associating the playlist with the personalized audio channel that is associated with the profile used to create the playlist (Col 7 lines 63-67, Col 8 lines 1-17); receiving from the user an indication that the user desires to listen to the personalized audio channel (Col 9 lines 40-53); selecting, in response to the received indication, a sound recording specified in the playlist (Col 8 lines 61-65); retrieving the selected sound recording (Col 35 lines 16-19); playing the selected sound recording so that the user can listen to the sound recording (Col 35 line 48); receiving a broadcast sound recording so that a user can listen to the broadcast sound recording (Col 35 lines 16-19); enabling the user to indicate that the user likes or does not like the broadcast sound recording (Col 35 lines 48-50); and modifying at least one of the one or more profiles in response to the user indicating that the user likes or does not like the broadcast sound recording (Col 35 lines 60-67, Col 36 lines 1-5).

q. As per claim 17, Leeke discloses the method of claim 16 further comprising the step of storing the broadcast sound recoding in a cache as the

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broadcast sound recording is being received (Col 48 lines 38-47, Col 49 lines 12-21).

r. As per claim 18, Leeke discloses a system comprising: means for storing one or more audio profiles (Col 6 lines 11-15); means for associating each of the one or more audio channel profiles with a personalized audio channel, wherein the audio channel profile associated with a personalized audio channel is used to select the sound recordings that are played for the personalized audio channel (Col 48 lines 55-59, 64-66); means for receiving a broadcast sound recording over a conventional broadcast audio channel (Col 5 lines 1-4); means for playing the sound recording so that a user can listen to the sound recording (Col 4 lines 52-56); means for receiving an indication from the user that the user likes the sound recording (Col 15 lines 13-15); and means for modifying at least one of the one or more audio channel profiles in response to receiving the indication (Col 35 lines 60-67, Col 36 line 1).

s. As per claim 19, Leeke discloses the system of claim 18 wherein the means for modifying at least one of the one or more audio channel profiles comprises a means for adding a sound recording identifier that identifies the sound recording to a list of sound recording identifiers included in the at least one profile (Col 31 lines 4-10).

t. As per claim 20, Leeke discloses the system of claim 18 wherein the means for modifying at least one of the one or more audio channel profiles comprises means for adding an artist identifier that identifies the artist that

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recorded the sound recording to a list of artist identifies included in the at least one profile (Col 18 lines 25-32).

u. As per claim 21, Leeke discloses the system of claim 18 further comprising means for enabling the user to specify the degree to which the user likes the sound recording (Col 35 lines 48-50).

v. As per claim 22, Leeke discloses the system of claim 18 further comprising means for receiving an input from the user, wherein the input specifies one or more of the audio channel profiles and wherein the means for modifying at least one of the one or more profiles modifies at least one of the specified profiles (Col 15 lines 57-58, Col 48 lines 64-66).

w. As per claim 23, Leeke discloses the system of claim 18 further comprising means for receiving information about the received broadcast sound recording (Table III, Col 44 lines 48-65).

x. As per claim 24, Leeke discloses the system of claim 23 further comprising means for selecting one or more of the audio channel profiles based on the received information concerning the sound recording and wherein the means for modifying at least one of the one or more audio channel profiles modifies at least one of the selected profiles (Col 48 lines 65-67).

y. As per claim 25, Leeke discloses the system of claim 23 wherein the information concerning the sound recording indicates a genre to which the sound recording belongs (Col 19 lines 66-67, Col 20 lines 1-11).

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z. As per claim 26, Leeke discloses the system of claim 18 further comprising: a cache (Col 49 lines 12-21); and means for storing the broadcast sound recording in the cache as the broadcast sound recording is being received by the receiving means (Col 48 lines 38-47, Col 49 lines 12-21).

aa. As per claim 27, Leeke discloses a system for providing one or more personalized audio channels, wherein each personalized audio channel has a profile associated therewith and each profile contains information that is used in selecting the sound recordings that are played by the personalized audio channel associated with the profile, comprising: means for receiving from the user an indication that the user desires to listen to a selected one of the one or more personalized audio channels (Col 35 lines 6-15); means for playing a set of sound recordings, wherein the set of sound recordings matches the profile associated with the selected personalized audio channel (Col 48 lines 64-66); means for receiving a broadcast sound recording over a conventional broadcast audio channel (Col 35 lines 16-19); means for playing the selected sound recording so that a user can listen to the broadcast sound recording (Col 35 line 48); means for enabling the user to indicate that the user likes or does not like the broadcast sound recording (Col 35 lines 48-50); and means for modifying at least one of the one or more profiles in response to the user indicating that the user likes or does not like the broadcast sound recording (Col 35 lines 60-67, Col 36 lines 1-5).

bb. As per claim 28, Leeke discloses the system of claim 27 further comprising: a cache (Col 49 lines 12-21); and means for storing the broadcast sound recording in the cache as the broadcast sound recording is being received by the receiving means (Col 48 lines 38-47, Col 49 lines 12-21).

cc. As per claim 29, Leeke discloses a system for providing one or more personalized audio channels, wherein each personalized audio channel has a profile associated therewith and each profile contains information that is used in selecting the sound recordings that are played by the personalized audio channel associated with the profile, comprising: playlist creation means for creating one or more playlists, wherein each playlist is associated with one of the personalized audio channels, wherein each playlist specifies a set of sound recordings, and wherein the playlist creations means uses the information in the profile associated with a personalized audio channel in creating the playlist associated with the personalized audio channel (Col 17 lines 22-32, Col 49 lines 57-62); means for receiving from the user an indication that the user desires to listen to one of the personalized audio channels (Col 9 lines 40-53); means for selecting in response to the received indication a sound recording specified in the playlist that is associated with the personalized audio channel to which the user desires to listen (Col 8 lines 61-65); means for retrieving the selected sound recording (Col 35 lines 16-19); means for playing the selected sound recording so that the user can listen to the sound recording (Col 35 line 48); means for receiving a broadcast sound recording over a conventional broadcast audio

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channel (Col 35 lines 16-19); means for playing the sound recording so that the user can listen to the broadcast sound recording (Col 35 line 48); means for enabling the user to indicate that the user likes or does not like the broadcast sound recording (Col 35 lines 48-50); and means for modifying at least one of the one or more profiles in response to the user indicating that the user likes or does not like the broadcast sound recording (Col 35 lines 60-67, Col 36 lines 1-5).

dd. As per claim 30, Leeke discloses the system of claim 29, further comprising: a cache (Col 49 lines 12-21); and means for storing the broadcast sound recording in the cache as the broadcast sound recording is being received by the receiving means (Col 48 lines 38-47, Col 49 lines 12-21).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abecassis (6,192,340) teaches integration of music from a personal library with real-time information.

Cook et al. (6,338,044) teaches a personal digital content system.

Dwek (6,248,946) teaches a multimedia content delivery system and method.

Kelly (5,913,204) teaches a method and apparatus for surveying music listener opinion about songs.


Lumelsky (6,246,672) teaches a singlecast interactive radio system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Grant Ford whose telephone number is (571)272-8630. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571)272-3880.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rupal.dharia@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER